

Arlington Town Meeting — Motion to Amend

ARTICLE NO. 14

Dated: April 19, 2024

I, Colin Bunnell, do hereby submit the following Motion to Amend Article 14:

To amend the recommended vote of the Select Board by making the following changes:

- 1) In the “Vote Language”, change the first occurrence of the word “or” to “and”, so that the relevant section reads “engage in picketing focused on, and taking place in front of or about, a particular residence...”; and
- 2) In the text of the proposed Bylaw, insert “focused on, and taking place” before the phrase “before or about the residence”.

So that it now reads as follows:

That the Town does and hereby amends Title I of the Town’s Bylaws to add a new provision to prohibit and make it unlawful for any person to engage in picketing focused on, ~~or~~ **and** taking place in front of or about, a particular residence in the Town of Arlington; or take any action related thereto, so that the new provision of Title I reads as follows:

TITLE I

ARTICLE 26

FOCUSED RESIDENTIAL PICKETING

It is unlawful for any person to engage in picketing **focused on, and taking place** before or about the residence or dwelling of any individual in the Town of Arlington.

Comment:

The text of the proposed bylaw differs in a crucial way from the bylaws/ordinances of both Boston and Brookline, in that both of those municipalities have a two-pronged test which only prohibits protest which is both (a) focused on a particular residence, and (b) takes place before or about the residence in question. By leaving out the first part of this test, the motion sweeps far more broadly than either Boston’s or Brookline’s prohibitions. By prohibiting all protest which takes place before or about any residence, this Article could be read to effectively ban protest anywhere in Arlington, as there is nowhere which is not in the vicinity of somebody’s residence. The ordinance in the Frisby case before the Supreme Court survived because the Court chose to

construe the statute as requiring this two-pronged test, which Boston and Brookline chose to make explicit, and Arlington did not. We should not assume another court will similarly construe our statute, but should instead make this test clear, as Boston and Brookline did.

Respectfully submitted,

/s/ Colin Bunnell

Colin Bunnell, Precinct 5

Date Voted: _____

Action Taken: _____